



Department of Defense

DIRECTIVE

NUMBER 7050.6

June 23, 2000

Certified Current as of February 20, 2004

IG, DoD

SUBJECT: Military Whistleblower Protection

References: (a) DoD Directive 7050.6, subject as above, August 12, 1995 (hereby canceled)
(b) Chapter 47 and Sections 892, 1034, 1552, and 1553 of title 10, United States Code
(c) Directive-type Memorandum, "Expanded Military Whistleblower Protection," February 2, 1999 (hereby superseded)
(d) Chapter 75, Section 552, and Appendix III of title 5, United States Code
(e) [DoD Directive 6490.1](#), "Mental Health Evaluations of Members of the Armed Forces," October 1, 1997
(f) [DoD Directive 5505.6](#), "Investigations of Allegations Against Senior Officials of the Department of Defense," July 12, 1991

1. REISSUANCE AND PURPOSE

This Directive:

1.1. Reissues [reference \(a\)](#) to:

1.1.1. Update policy and responsibilities for military whistleblower protection under Section 1034 of [reference \(b\)](#).

1.1.2. Expand coverage under Section 1034 of [reference \(b\)](#) to reprisal allegations submitted by members of the Armed Forces to the Inspector General, Department of Defense (IG, DoD), and to the Inspectors General (IGs) within the Military Departments.

1.2. Supersedes [reference \(c\)](#).

2. APPLICABILITY AND SCOPE

This Directive applies to the Office of the Secretary of Defense, the Military Departments (including the U.S. Coast Guard when it is operating as a Military Service in the Navy), the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as "the DoD Components").

3. DEFINITIONS

Terms used in this Directive are defined in [enclosure 1](#).

4. POLICY

It is DoD policy that:

4.1. Members of the Armed Forces shall be free to make a protected communication to:

4.1.1. A Member of Congress.

4.1.2. An IG.

4.1.3. A member of a DoD audit, inspection, investigation, or law enforcement organization; or

4.1.4. Any other person or organization (including any person or organization in the chain of command) designated under DoD Component regulations or other established administrative procedures to receive such communications.

4.2. No person shall restrict a member of the Armed Forces from making a protected communication.

4.3. Members of the Armed Forces shall be free from reprisal for making or preparing a protected communication.

4.4. No person may take or threaten to take an unfavorable personnel action, or withhold or threaten to withhold a favorable personnel action, in reprisal against any member of the Armed Forces for making or preparing a protected communication.

4.5. Any violation of [paragraph 4.4.](#), above, by a person subject to Chapter 47 of 10 U.S.C. (the Uniform Code of Military Justice, [reference \(b\)](#)), is punishable as a violation of Section 892 of 10 U.S.C. (Article 92 of the Uniform Code of Military Justice, "Failure to obey order or regulation"). Civilian employees of the Department of Defense who violate paragraph 4.4., above, shall be subject to disciplinary or adverse action for misconduct pursuant to Chapter 75 of 5 U.S.C. ([reference \(d\)](#)).

4.5.1. The Secretaries of the Military Departments shall issue regulations making punishable any violation of the provision set forth in [paragraph 4.4.](#), above, by a person subject to Chapter 47 of 10 U.S.C. ([reference \(b\)](#)).

4.5.2. The Secretaries of the Military Departments shall ensure that any violation of the provision set forth in [paragraph 4.4.](#), above, by civilian employees under their respective jurisdictions are punishable under regulations governing civilian employee disciplinary or adverse actions.

5. RESPONSIBILITIES

No investigation is required when a member of the Armed Forces submits a complaint of reprisal to an authorized IG more than 60 days after the date that the member became aware of the personnel action that is the subject of the allegation.

5.1. The Inspector General of the Department of Defense shall investigate, or oversee DoD Component IG investigations of, allegations that the prohibitions of [paragraph 4.4.](#), above, have been violated. To ensure compliance with Section 1034 of 10 U.S.C. ([reference \(b\)](#)) and this Directive, the IG, DoD shall:

5.1.1. Expeditiously determine whether there is sufficient evidence to warrant an investigation of an allegation submitted to the IG, DoD, or to a DoD Component IG other than a Military Department IG, by a member or former member of the Armed Forces that the prohibitions of [paragraph 4.4.](#), above, have been violated.

5.1.2. Receive notification from a Military Department IG of reprisal allegations submitted to them by members or former members of the Armed Forces and expeditiously notify the Military Department IG concerned of decisions to retain such allegations for investigation.

5.1.3. Review determination by a Military Department IG that investigation of an allegation submitted to an IG within the Military Department concerned is not warranted.

5.1.4. Expeditiously initiate, or request the IG of a DoD Component to initiate, an investigation when it has been determined that investigation of an allegation is warranted. When the IG, DoD, requests the IG of a DoD Component to conduct an

investigation, ensure that the IG conducting the investigation is outside the immediate chain of command (as established under Component regulations) of the member submitting the allegation and the individual(s) alleged to have taken the reprisal action.

5.1.5. Review and approve the results of reprisal investigations conducted by DoD Component IGs. Initiate a follow-up investigation to correct inadequacies, or ensure that the DoD Component IG concerned corrects them, if the review determines an investigation is inadequate.

5.1.6. Issue a report of investigation within 180 days of the receipt of an allegation of reprisal investigated by the IG, DoD. The report of investigation shall include a thorough review of the facts and circumstances relevant to the allegations, relevant documents acquired during the investigation, and summaries of interviews conducted. The report may include a recommendation as to the disposition of the complaint. If a determination is made that the report cannot be issued within 180 days, notify the Deputy Under Secretary of Defense for Program Integration (DUSD(PI)) and the member or former member of the reasons for the delay and when that report will be issued.

5.1.7. Notify the DUSD(PI) of the results of the investigation and provide a copy of the report of investigation to the member or former member not later than 30 days after completion of the investigation. A copy of the documents acquired during the investigation and summaries of witness testimony shall be transmitted to the member or former member if he or she requests them. The copy of the report, and supporting documents, if requested, released to the member or former member shall include the maximum disclosure of information possible except what is not required to be disclosed under Section 552 of 5 U.S.C. [\(reference \(d\)\)](#).

5.1.8. Advise the member or former member concerned that he or she may request review of the matter by a board for correction of military records (BCMR).

5.1.9. At the request of a BCMR:

5.1.9.1. Submit a copy of the report of investigation to the BCMR.

5.1.9.2. Gather further evidence.

5.1.10. Conduct, or request a DoD Component IG to conduct, a separate investigation of the allegations contained in the protected communication when:

5.1.10.1. Such an investigation has not been initiated; or

5.1.10.2. An investigation of the allegations contained in the protected communication has been conducted and the IG, DoD, determines the investigation was biased or inadequate.

5.1.11. When an investigation under [subparagraph 5.1.10.](#), above, is required, notify the DUSD(PI) of the results of the investigation and provide a copy of the report of investigation to the member or former member not later than 30 days after completion of the investigation. The report of investigation shall include a thorough review of the facts and circumstances relevant to the allegation; relevant documents acquired during the investigation, and summaries of interviews taken. A copy of the documents acquired during the investigation and summaries of witness testimony shall be transmitted to the member or former member if he or she requests them. The copy of the report released to the member or former member shall include the maximum disclosure of information possible except what is not required to be disclosed under Section 552 of 5 U.S.C. [\(reference \(d\)\).](#)

5.2. The Deputy Under Secretary of Defense for Program Integration, under the Under Secretary of Defense for Personnel and Readiness, shall:

5.2.1. Receive reports on the results of investigations conducted under this Directive and Section 1034 of 10 U.S.C. [\(reference \(b\)\).](#)

5.2.2. On behalf of the Secretary of Defense, within 90 days of receipt of a request submitted under enclosure 2, [section E2.3.](#), review the final decision of the Secretary of the Military Department concerned on applications for correction of military records decided under this Directive and Section 1034 of 10 U.S.C. [\(reference \(b\)\).](#) and decide whether to uphold or reverse the decision of the Secretary of the Military Department concerned. The decision on behalf of the Secretary of Defense is final.

5.2.3. Have access to all research, reports, investigations, audits, reviews, documents, papers, or any other material necessary to carry out the responsibilities assigned to the DUSD(PI) by this Directive.

5.2.4. If necessary, obtain for review and request the Secretary of the Military Department concerned to comment on evidence considered by a BCMR when the Secretary of Defense is requested to reconsider the final decision of the Secretary of the Military Department concerned.

5.2.5. Notify the IG, DoD, and the Military Department IG concerned, of decisions made for the Secretary of Defense on requests submitted under enclosure 2, [section E2.3.](#) and issue such DoD Instructions as may be necessary to implement this section and the requirements of enclosure 2, section E2.3.

5.3. The Secretaries of the Military Departments shall:

5.3.1. Ensure that consideration of all military whistleblower allegations submitted under Section 1034 of 10 U.S.C. [\(reference \(b\)\)](#) shall be thorough, objective, and timely; and that corrective actions shall be taken promptly.

5.3.2. Ensure the Military Department IGs shall:

5.3.2.1. Establish internal procedures for receiving, reporting, and investigating, under Section 1034 of [reference \(b\)](#), allegations that the provisions of [paragraph 4.4.](#), above, have been violated.

5.3.2.2. Notify the IG, DoD, within 10-working days of receiving an allegation that the provisions of [paragraph 4.4.](#), above, have been violated, and provide a copy of the written complaint or a detailed summary of the allegation. When an allegation of reprisal is made against a senior official of the Department of Defense, the provisions of DoD Directive 5505.6 ([reference \(f\)](#)) shall also apply.

5.3.2.3. Expeditiously determine whether there is sufficient evidence to warrant an investigation of an allegation that the prohibitions of [paragraph 4.4.](#), above, have been violated.

5.3.2.4. Forward to the IG, DoD, for review any determination that there is not sufficient evidence to warrant investigation of a reprisal allegation. If the IG, DoD, concurs with the determination of the Military Department IG concerned that there is not sufficient evidence to warrant investigation of the reprisal allegation under Section 1034 of [reference \(b\)](#), the Military Department IG concerned shall notify the member making the reprisal allegation.

5.3.2.5. Expeditiously initiate an investigation when it has been determined that investigation of an allegation under Section 1034 of 10 U.S.C. ([reference \(b\)](#)) is warranted, or upon receiving a request from the IG, DoD.

5.3.2.6. Within 180 days of receiving the allegation from the member or receiving a request from the IG, DoD:

5.3.2.6.1. Investigate a reprisal allegation.

5.3.2.6.2. Provide the IG, DoD, with the report of investigation. The report shall include a thorough review of the facts and circumstances relevant to the allegations, relevant documents acquired during the investigation, and summaries of interviews conducted. The report may include a recommendation as to the disposition of the complaint. If a determination is made that the report cannot be issued within 180 days, notify the DUSD(PI), the IG, DoD, and the member or former member of the reasons for the delay and when the report will be issued.

5.3.2.7. Notify the DUSD(PI) of the results of the investigation and provide a copy of the report of investigation to the member or former member not later than 30 days after the IG, DoD, approves the report of investigation. A copy of the documents acquired during the investigation and summaries of witness testimony shall be transmitted to the member or former member if he or she requests them. The copy of the

report, and supporting documents, if requested, released to the member or former member shall include the maximum disclosure of information possible except what is not required to be disclosed under Section 552 of 5 U.S.C. [\(reference \(d\)\)](#).

5.3.2.8. Advise the member or former member concerned that he or she may request review of the matter by a board for correction of military records (BCMR).

5.3.2.9. At the request of a BCMR:

5.3.2.9.1. Submit a copy of the report of investigation to the BCMR.

5.3.2.9.2. Gather further evidence.

5.3.2.10. Conduct a separate investigation into the allegations contained in the member's protected communication when:

5.3.2.10.1. Such an investigation has not been initiated; or

5.3.2.10.2. An investigation of the allegations contained in the protected communication has been conducted and the Military Department IG concerned determines the investigation was biased or inadequate.

5.3.2.10.3. The IG, DoD, requests the investigation be conducted.

5.3.2.11. When an investigation under [subparagraph 5.3.2.10.](#), above, is required, notify the DUSD(PI) of the results of the investigation and provide a copy of the report of investigation to the member or former member not later than 30 days after completion of the investigation. The report of investigation shall include a thorough review of the facts and circumstances relevant to the allegations, relevant documents acquired during the investigation, and summaries of interviews taken. A copy of the documents acquired during the investigation and summaries of witness testimony shall be transmitted to the member or former member if he or she requests them. The copy of the report released to the member or former member shall include the maximum disclosure of information possible except what is not required to be disclosed under Section 552 of 5 U.S.C. [\(reference \(d\)\)](#).

5.3.2.12. Ensure that the subject(s) of the investigation of an allegation of reprisal conducted under this Directive are afforded procedural protections, including the opportunity to present matters in their behalf, incident to administrative or disciplinary action, under DoD Component regulations or other established administrative procedures governing such action.

5.3.2.13. Publicize the content of this Directive to ensure that members of the Armed Forces and other DoD personnel fully understand its scope and application.

5.3.3. Based on the IG report of investigation, take corrective action, to include providing assistance to members preparing an application to a BCMR, when implementation of the recommendations of the report requires action by a BCMR. Notify the IG, DoD, of corrective action taken within 10-working days of taking such action.

5.3.4. Ensure that the BCMR shall:

5.3.4.1. Consider applications for the correction of military records at the request of a member or former member, or otherwise, who alleged that the prohibitions of [paragraph 4.4.](#), above, have been violated.

5.3.4.2. In resolving such an application:

5.3.4.2.1. Review the report by the IG under [subparagraph 5.1.6.](#) and [subparagraph 5.3.2.6.2.](#), above, and [subparagraph 5.4.1.3.](#), below.

5.3.4.2.2. Request the IG, DoD, or the Military Department IG concerned to gather further evidence.

5.3.4.2.3. Receive oral argument, examine and cross-examine witnesses, take depositions, and, if appropriate, conduct a hearing. If a hearing is held, the requirements of enclosure 2, [section E2.2.](#), shall apply.

5.3.4.2.4. If the BCMR determines that a personnel action was in reprisal under this Directive, it may recommend to the Secretary of the Military Department concerned that disciplinary action be taken against the individual(s) responsible for such personnel action.

5.3.5. Issue a final decision on an application received under this Directive within 180 days after the application is filed. If the Secretary of the Military Department concerned fails to issue a final decision within that time, the member or former member shall be deemed to have exhausted the administrative remedies under Section 1552 of 10 U.S.C. ([reference \(b\)](#)).

5.3.6. Advise the member or former member that he or she may request review of the matter by the Secretary of Defense, under [paragraph 5.2.](#), above, and enclosure 2, [section E2.3.](#), and that such a request must be made within 90 days of receipt of a decision by the Secretary of the Military Department concerned on the matter.

5.3.7. Order such action, consistent with the limitations in Sections 1552 and 1553 of [reference \(b\)](#), to correct the record of a personnel action prohibited by [paragraph 4.4.](#), above.

5.3.8. Notify the IG, DoD, and the Military Department IG concerned, of a decision on an application for the correction of military records received from a member

or former member of the Armed Forces under this Directive and of any disciplinary action taken.

5.4. The Heads of the DoD Components (other than the Secretaries of the Military Departments) shall:

5.4.1. Ensure that the DoD Component IG (as applicable) shall:

5.4.1.1. On receipt of an allegation from a military member that the provisions of [paragraph 4.4.](#), above, have been violated, advise the member that the allegation shall be forwarded to the IG, DoD.

5.4.1.2. Forward the allegation to the IG, DoD, for determination of whether investigation of the allegation is warranted. When an allegation of reprisal is made against a senior official of the Department of Defense, the provisions of DoD Directive 5505.6 ([reference \(f\)](#)) shall also apply.

5.4.1.3. At the request of the IG, DoD, investigate the allegation of reprisal and provide the IG, DoD, within 180 days of the request, the report of investigation. The report shall include a thorough review of the facts and circumstances relevant to the allegations, relevant documents acquired during the investigation, and summaries of interviews conducted. The report may include a recommendation as to the disposition of the complaint. The copy of the report submitted to the IG, DoD, for release to the member or former member shall include the maximum disclosure of information possible except what is not required to be disclosed under Section 552 of 5 U.S.C. ([reference \(d\)](#)).

5.4.1.4. At the request of the IG, DoD, investigate the allegations contained in the member's protected communication. The report of investigation shall include a thorough review of the facts and circumstances relevant to the allegations, relevant documents acquired during the investigation, and summaries of interviews conducted. The report may include a recommendation as to the disposition of the complaint. A copy of the report for release to the member or former member shall be submitted to the IG, DoD, not later than 30 days after completion of the investigation, and shall include the maximum disclosure of information possible except what is not required to be disclosed under Section 552 of 5 U.S.C. ([reference \(d\)](#)).

5.4.2. Based on the IG report of investigation, take corrective action, to include providing assistance to members preparing an application to a BCMR, when implementation of the recommendations of the report requires action by a BCMR. Notify the IG, DoD, of corrective action taken within 10-working days of taking such action.

5.4.3. Ensure that the subject(s) of the investigation of an allegation of reprisal conducted under this Directive are afforded procedural protections, including the opportunity to present matters in their behalf, incident to administrative or disciplinary

action, under DoD Component regulations or other established administrative procedures governing such action.

5.4.4. Publicize the content of this Directive to ensure that members of the Armed Forces and other DoD personnel fully understand its scope and application.

6. EFFECTIVE DATE

This Directive is effective immediately.

A handwritten signature in black ink, appearing to read 'Rudy de Leon'.

Rudy de Leon
Deputy Secretary of Defense

Enclosures - 2

- E1. [Definitions](#)
- E2. [Requirements](#)

E1. ENCLOSURE 1

DEFINITIONS

E1.1.1. Audit, Inspection, Investigation, and Law Enforcement Organizations. The law enforcement organizations at any command level in any of the DoD Components, the Defense Criminal Investigative Service, the U.S. Army Criminal Investigation Command, the Naval Criminal Investigative Service, the Air Force Office of Special Investigations, the U.S. Army Audit Agency, the Naval Audit Service, the Air Force Audit Agency, and the Defense Contract Audit Agency.

E1.1.2. Board for Correction of Military Records (BCMR). Any board empowered under Section 1552 of 10 U.S.C. [\(reference \(b\)\)](#) to recommend correction of military records to the Secretary of the Military Department concerned.

E1.1.3. Corrective Action. Any action deemed necessary to make the complainant whole; changes in Agency regulations or practices; administrative or disciplinary action against offending personnel; or referral to the U.S. Attorney General or court-martial convening authority of any evidence of criminal violation.

E1.1.4. Inspectors General (IGs)

E1.1.4.1. The Inspector General of the Department of Defense.

E1.1.4.2. The Military Department Inspectors General. These include the Inspector General of the Army; the Naval Inspector General; the Inspector General of the Air Force; and the Deputy Naval Inspector General for Marine Corps Matters.

E1.1.4.3. Inspectors General within the Military Departments. These include the Inspectors General named in subparagraph E1.1.4.2., above, and Inspectors General assigned or detailed under regulations of the Secretary concerned to serve at any command level in one of the Armed Forces.

E1.1.4.4. DoD Component Inspectors General (other than Military Department Inspectors General). These include the Inspectors General assigned or detailed at any command level in one of the DoD Components other than the Military Departments.

E1.1.4.5. An Inspector General appointed under Appendix III of 5 U.S.C. [\(reference \(d\)\)](#).

E1.1.5. Member of Congress. Besides a Senator or Representative, includes any Delegate or Resident Commissioner to the Congress.

E1.1.6. Member or Member of the Armed Forces. All Regular and Reserve component officers (commissioned and warrant) and enlisted members of the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard (when it is operating as a Military Service in the Navy) on active duty; and Reserve component officers (commissioned and warrant) and enlisted members in any duty or training status (includes officers and enlisted members of the National Guard).

E1.1.7. Personnel Action. Any action taken on a member of the Armed Forces that affects or has the potential to affect that military member's current position or career. Such actions include a promotion; a disciplinary or other corrective action; a transfer or reassignment; a performance evaluation; a decision on pay, benefits, awards, or training; referral for mental health evaluations under DoD Directive 6490. 1 [\(reference \(e\)\)](#); and any other significant change in duties or responsibilities inconsistent with the military member's rank.

E1.1.8. Protected Communication

E1.1.8.1. Any lawful communication to a Member of Congress or an IG.

E1.1.8.2. A communication in which a member of the Armed Forces communicates information that the member reasonably believes evidences a violation of law or regulation, including sexual harassment or unlawful discrimination, gross mismanagement, a gross waste of funds or other resources, an abuse of authority, or a substantial and specific danger to public health or safety, WHEN such communication is made to any of the following:

E1.1.8.2.1. A Member of Congress, an IG, or a member of a DoD audit, inspection, investigation, or law enforcement organization.

E1.1.8.2.2. Any other person or organization (including any person or organization in the chain of command) designated under DoD Component regulations or other established administrative procedures to receive such communications.

E1.1.9. Reprisal. Taking or threatening to take an unfavorable personnel action, or withholding or threatening to withhold a favorable personnel action, for making or preparing a protected communication.

E1.1.10. Senior Official. Active duty, retired, Reserve, or National Guard military officers in grades O-7 and above, current or former members of the Senior Executive Service, and current and former DoD civilian presidential appointees.

E1.1.11. Unlawful Discrimination. Discrimination on the basis of color, national origin, race, religion or sex, as set forth in Section 1034 of 10 U.S.C. [\(reference \(b\)\)](#).

E1.1.12. Whistleblower. A member of the Armed Forces who makes or prepares to make a protected communication.

E2. ENCLOSURE 2

REQUIREMENTS

E2.1. FILING A COMPLAINT OF REPRISAL

To be considered under this Directive, members or former members of the Armed Forces may submit complaints of reprisal (as defined in enclosure 1, [definition E1.1.9.](#)) to the IG, DoD, or an IG within a Military Department. Complaints of reprisal made to DoD Component IGs other than the IG, DoD, or an IG within a Military Department shall be forwarded to the IG, DoD.

E2.1.1. Time Limits. No investigation is required when a member of the Armed Forces submits a complaint of reprisal to an authorized Inspector General more than 60 days after the date that the member became aware of the personnel action that is the subject of the allegation.

E2.1.2. Address. Complaints of reprisal to the IG, DoD, may be made by telephone at (800) 424-9098, by email at hotline@dodig.osd.mil, or by letter addressed as follows:

Department of Defense Inspector General
ATTENTION: Defense Hotline
1900 Defense Pentagon
Washington, DC 20301-1900

E2.1.3. Content of Complaint. To assist in the review of the complaint, provide as much of the following information as possible. For additional guidance, visit the DoD Hotline web site at www.dodig.osd.mil/hotline/index.html.

E2.1.3.1. Member's full name, rank, duty title, organization, duty location, commercial or Defense Switches Network (DSN) telephone numbers, and residence telephone number and mailing address for receipt of correspondence from the IG, DoD, or Military Department or other DoD Component IG.

E2.1.3.2. A copy of the protected communication (as defined in enclosure 1, [definition E1.1.8.](#)) and any reply about the matter. If a copy is not available, include the date of the protected communication, to whom the protected communication was made, the content of the protected communication, and whether the matter was investigated, when and by whom.

E2.1.3.3. Identify the personnel action(s) (as defined in enclosure 1, [definition E1.1.7.](#)) taken, withheld, or threatened to be taken or withheld. Provide documentation

about the personnel action or describe the type of personnel action and the date such action occurred.

E2.1.3.4. Provide to the extent possible the full name, rank and/or grade, duty title, organization, duty location, and commercial or DSN telephone number of the officials responsible for signing, taking, recommending, or influencing the personnel action at issue. Indicate why and how any official involved in the personnel action knew of the protected communication.

E2.1.3.5. List key witnesses and the information they have that will establish the personnel action at issue was in reprisal for making or preparing a protected communication; include commercial and DSN telephone numbers or other information on how to contact the witnesses.

E2.1.3.6. Provide any other information in support of the allegations. If possible, provide a chronology of events, including the date of the protected communication and dates of all subsequent personnel actions taken, withheld, or threatened to be taken or withheld.

E2.2. HEARING HELD BY A BCMR

If a BCMR elects to hold an administrative hearing under [subparagraph 5.3.4.2.3](#) of this Directive, the member or former member who filed the application:

E2.2.1. May be represented by a judge advocate if all of the following conditions exist:

E2.2.1.1. The IG investigation finds there is probable cause that a personnel action was in reprisal for a member of the Armed Forces making or preparing a protected communication.

E2.2.1.2. The Judge Advocate General concerned determines that the case is unusually complex or otherwise requires judge advocate assistance to ensure proper presentation of the legal issues in the case.

E2.2.1.3. The member is not represented by outside counsel retained by the member.

E2.2.2. May examine witnesses through depositions, serve interrogatories, and request the production of evidence, including evidence in an IG investigative record not included in the report released to the member or former member.

E2.3. APPEAL TO THE SECRETARY OF DEFENSE

A member or former member of the Armed Forces who has filed an application for the correction of military records under Section 1034 of 10 U.S.C. [\(reference \(b\)\)](#) alleging reprisal for making or preparing a protected communication may request review by the Secretary of Defense of the final decision of the Secretary of the Military Department concerned on such application under this section and [subparagraph 5.2.2.](#) of this Directive.

E2.3.1. Requests based on factual allegations or evidence not previously presented to the cognizant BCMR shall not be considered.

E2.3.2. New allegations or evidence must be submitted directly to the BCMR for reconsideration under procedures established by the BCMR.

E2.3.3. Content of Appeal. The appeal to the Secretary of Defense must be in writing and include the following:

E2.3.3.1. Member's full name, rank, duty title, organization, duty location, and commercial or DSN telephone numbers.

E2.3.3.2. A copy of the application to the BCMR and the final decision by or for the Secretary of the Military Department concerned on such application.

E2.3.3.3. A statement of the specific reasons why the member or former member is not satisfied with the decision of the Secretary of the Military Department concerned and the specific remedy or relief requested.

E2.3.4. Time Limits. The request for review by the Secretary of Defense must be submitted within 90 days of receipt of the final decision by or for the Secretary of the Military Department concerned.

E2.3.5. Address. Address requests for review by the Secretary of Defense as follows:

Deputy Under Secretary of Defense for Program Integration
Attention: Director, Legal Policy
4000 Defense Pentagon
Washington, DC 20301-4000